

EXHIBIT 5

IN THE UNITED STATES DISTRICT COURT
IN AND FOR DISTRICT OF DELAWARE

WILLIE DAVIS, JR.,)
NATHANIEL BRIDDELL,)
GEORGE W. FEDDIMAN,)
JOSEPH GARRISON,)
LARRY E. GIBBS,)
ROY H. WALTERS,)

ALL SIMILARLY SITUATED CURRENT)
AND FORMER EMPLOYEES OF)
MOUNTAIRE FARMS, INC.,)
MOUNTAIRE FARMS OF DELMARVA,)
INC., and MOUNTAIRE FARMS OF)
DELAWARE, INC.,)

Plaintiffs,)

-vs-)

C.A. No. 04-0414)

MOUNTAIRE FARMS, INC.,)
MOUNTAIRE FARMS OF)
DELMARVA, INC., and)
MOUNTAIRE FARMS OF)
DELAWARE, INC., all Delaware)
corporations,)
Defendants.)

Deposition of PHILLIP OWEN, taken before
Pamela C. Washington, Registered Professional Reporter
and Notary Public, at the law offices of Young,
Conaway, Stargatt & Taylor, 110 West Pine Street,
Georgetown, DE, on February 1, 2005, beginning at 1:00
p.m.

APPEARANCES:

On behalf of the Plaintiffs:

Margolis Edelstein

BY: JEFFREY K. MARTIN, ESQ.

and KERI L. WILLIAMS, ESQ.

1509 Gilpin Avenue

Wilmington, Delaware 19806

On behalf of the Defendants:

Shawe & Rosenthal

BY: ARTHUR M. BREWER, ESQ.

20 South Charles Street

Baltimore, Maryland 21201

Owen - Martin

1 A I don't know. I should know but I
2 don't know.

3 Q All right. Let me just finish up here.
4 We noted that there was a change in status from
5 nonexempt to exempt according to Mountaire in June of
6 2002.

7 A Correct.

8 Q And I recognize that you were not yet
9 employed at Mountaire, but you have the access to the
10 HR files and the other files, correct?

11 A Yes, yes, yes, I do. Yes, I do.

12 Q Were you aware of any type of analysis
13 that was undertaken by the company to support the
14 change from one to the other?

15 A I am not. I don't -- I know of no such
16 analysis.

17 Q All right. Now, let me ask you kind of
18 a catch-all question, and that is you have testified
19 that there were various memos written between you and
20 Mr. Brown, and you and Al Z --

21 A Yes.

22 Q -- all of which you are going to
23 produce, subject to any exceptions by your counsel.
24 Are there any other memos or any other writings with
25 regard to this issue as to the crew leader entitlement